

HOUSE BILL NO. 35

INTRODUCED BY H. JACOBSON

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PUBLIC EMPLOYMENT HIRING PREFERENCE FOR ELIGIBLE FORMER AND ACTIVE MEMBERS OF THE MONTANA ARMY AND AIR NATIONAL GUARD; AMENDING SECTION 39-29-101, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-29-101, MCA, is amended to read:

**"39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

~~(1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except for training, determining physical fitness, or service in the reserve or national guard.~~

~~(2)~~(1) "Armed forces" means the ~~United States~~:

(a) United States army, navy, air force, marine corps, and coast guard; ~~and~~

(b) merchant marine for service recognized by the United States department of defense as active military service for the purpose of laws administered by the department of veterans affairs; and

(c) Montana army and air national guard.

~~(3)~~(2) "Disabled veteran" means a person:

(a) whether or not the person is a veteran ~~as defined in this section~~, who was separated under honorable conditions from ~~active~~ military duty in the armed forces and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a law administered by the department of veterans affairs, ~~or a military department, or the state of Montana~~; or

(b) who has received a purple heart medal.

~~(4)~~(3) "Eligible relative" means:

(a) the unmarried surviving spouse of a veteran or disabled veteran;

(b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

(c) the mother of a veteran who died under honorable conditions while serving in the armed forces if:



- 1 (i) the mother's spouse is totally and permanently disabled; or  
 2 (ii) the mother is the widow of the father of the veteran and has not remarried;  
 3 (d) the mother of a service-connected permanently and totally disabled veteran if:  
 4 (i) the mother's spouse is totally and permanently disabled; or  
 5 (ii) the mother is the widow of the father of the veteran and has not remarried.  
 6 (4) "Military duty" means duty with military pay and allowances in the armed forces.  
 7 (5) (a) "Position" means a position occupied by a permanent, temporary, or seasonal employee, as  
 8 defined in 2-18-101, for the state or a similar permanent, temporary, or seasonal employee with a public  
 9 employer other than the state.  
 10 (b) The term does not include:  
 11 ~~(a)~~(i) a state or local elected office;  
 12 ~~(b)~~(ii) appointment by an elected official to a body, such as a board, commission, committee, or council;  
 13 ~~(c)~~(iii) appointment by an elected official to a public office if the appointment is provided for by law;  
 14 ~~(d)~~(iv) a department head appointment by the governor or an executive department head appointment  
 15 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local  
 16 government; or  
 17 ~~(e)~~(v) engagement as an independent contractor or employment by an independent contractor.  
 18 (6) "Public employer" means:  
 19 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the executive,  
 20 legislative, or judicial branches of the government of this state;  
 21 (b) a unit of the Montana university system;  
 22 (c) a school district or community college; and  
 23 (d) a county, city, or town.  
 24 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other  
 25 selection procedure or a combination of these procedures that results in a numerical score to which percentage  
 26 points may be added.  
 27 (8) (a) "Under honorable conditions" means a discharge or separation from ~~active~~ military duty  
 28 characterized by the armed forces as under honorable conditions. The term includes honorable discharges and  
 29 general discharges.  
 30 (b) ~~but~~ The term does not include dishonorable discharges or other administrative discharges

1 characterized as other than honorable.

2 (9) "Veteran" means a person who:

3 (a) was separated under honorable conditions from active federal military duty in the armed forces after  
4 having served more than 180 consecutive days, other than for training; ~~or~~

5 (b) as a member of a reserve component under an order of ~~active federal~~ federal duty pursuant to 10 U.S.C.  
6 12301(a), (d), or (g), 10 U.S.C. 12302, or 10 U.S.C. 12304 served on active duty during a period of war or in a  
7 campaign or expedition for which a campaign badge is authorized and was discharged or released from duty  
8 under honorable conditions; or

9 (c) is or has been a member of the Montana army or air national guard and who has satisfactorily  
10 completed a minimum of 6 years service in the armed forces, the last 3 years of which have been served in the  
11 Montana army or air national guard."

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13 NEW SECTION. Section 2. Applicability. [This act] applies to positions of public employment that are  
14 subject to the provisions of [this act] that are open for employment on or after [the effective date of this act].

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